

Chapter 7.40**VARIANCE PROCEDURE****Sections:****7.40.010 Variance procedure.****7.40.020 Appeals.****Section 7.40.010 Variance procedure.**

A. The Zoning Administrator is authorized to grant variances for exemption from any provision of this title, and may limit area of applicability, noise levels, time limits, and other terms and conditions determined appropriate to protect the public health, safety, and welfare. The provisions of this section shall in no way affect the duty to obtain any permit or license required by law for such activities.

B. Any person seeking a variance pursuant to this section shall file an application with the Zoning Administrator. The application shall be signed by the property owner or owner's representative using forms supplied by the Planning Division. The application shall contain information which demonstrates that bringing the source of the sound or activity into compliance with this title would constitute an unreasonable hardship to the applicant, the community, or other persons. The Zoning Administrator may require additional information if it is necessary to make a determination regarding the variance request. The application shall be accompanied by a fee established by resolution of the City Council.

C. A separate application shall be filed for each noise source; provided, however, several mobile sources under common ownership or several fixed sources on a single property may be combined into one application. Any person who claims to be adversely affected by the allowance of the variance may file a statement with the Zoning Administrator containing any information to support his claim. If the Zoning Administrator determines that a sufficient controversy exists regarding a variance application, the variance may be set for public hearing before the Planning Commission.

D. Public notice of the consideration of a proposed variance from the standards of this chapter shall be provided by the Zoning Administrator by mailing such notice to property owners within three hundred feet of the exterior boundaries of the property under consideration. The notice shall invite interested persons to notify the Planning Department of any concerns or comments within ten days of the date of the notice.

E. In determining whether to grant or deny the application, the Zoning Administrator or the Planning Commission shall consider comments received from property owners within three hundred feet, hardship on the applicant, the community, or other persons affected and property affected and any other adverse impacts. The requested variance may be granted in whole or in part and upon such terms and conditions as it deems necessary if, from the facts presented on the application, the Zoning Administrator or the Planning Commission finds that:

1. The strict application of the provisions of this title would result in practical difficulties or unnecessary hardships inconsistent with the general purpose of this title;

2. There are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood;

3. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located;

4. The granting of such variance will not be contrary to the objectives of any part of the

adopted General Plan.

F. A variance shall be granted by a notice to the applicant containing all the necessary conditions, including any time limits on the permitted activity. The variance shall not become effective until all the conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this chapter for which the variance was granted.

G. A variance shall be valid for a period not exceeding one year after the date on which it was granted. Applications for extensions of the time limits specified in variances or for the modification of other substantial conditions shall be treated like applications for initial variances.

H. In the event the Zoning Administrator does not approve an application for a variance within ten days after the application is filed it shall be placed on the agenda of the next regularly scheduled Planning Commission, unless the Commission refers the matter to the City Council. (Ord. 6967 § 7, 2007; Ord. 6462 § 8-10, 1999; Ord. 6273 § 1 (part), 1996)

Section 7.40.020 Appeals.

Any person aggrieved by the approval or disapproval of a variance, may appeal the decision of the Zoning Administrator or Planning Commission to the City Council within ten days after the date of such approval or disapproval. The City Council shall hold a hearing thereon, upon notice to the applicant, considering the same criteria presented to the Zoning Administrator. (Ord. 6462 § 11, 1999; Ord. 6273 § 1 (part), 1996)